



INTERIOR BOARD OF INDIAN APPEALS

Native Village of Shishmaref v. Acting Juneau Area Director,
Bureau of Indian Affairs

26 IBIA 230 (09/15/1994)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

NATIVE VILLAGE OF SHISHMAREF,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 94-111-A
ACTING JUNEAU AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	September 15, 1994

Appellant Native Village of Shishmaref seeks review of an April 6, 1994, decision issued by the Acting Juneau Area Director, Bureau of Indian Affairs (Area Director; BIA), disapproving its application for funding under the FY 1994 Small Tribes grant program. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

Pursuant to an announcement published at 58 FR 68699 (Dec. 28, 1993), appellant filed an application for a grant under the Small Tribes program. On April 6, 1994, the Area Director notified appellant that its application was denied. The denial letter stated:

Section C(4) of the announcement * * * expressly prohibits the payment under the grant of a salary or other compensation to any elected official. Your application's budget included \$1,120.00 for stipends for Council members.

Because this grant program is highly competitive, I must disapprove any application that violates an express prohibition in the program announcement. [1/]

Appellant appealed this decision in an April 25, 1994, letter to the Area Director in which it stated that it would delete the request for stipends to Council members. By letter dated May 5, 1994, the Area Director informed appellant that its appeal had been forwarded to the Board, and stated that he was not able to consider changes or amendments to applications that were submitted after the deadline for receipt of applications.

1/ The prohibition against stipends to elected officials was emphasized in a document entitled "Advice on Application Preparation." This document, which was sent to tribes by the Juneau Area Office, states:

"Applications will be automatically disapproved for any of the following * * *

6. Application includes in its budget an amount for compensation to a tribal official (officer or council member), including meeting stipends." (Emphasis in original.)

Although informed of its right to do so, appellant did not file any additional statements with the Board.

The Board has previously addressed the question of stipends to elected tribal officials, and an offer to amend a Small Tribes grant application to remove such stipends. See Hughes Village Council v. Acting Juneau Area Director, 24 IBIA 192 (1993).

As in Hughes, this appeal is based on appellant's offer to amend its grant application by the deletion of stipends to elected tribal officials. The Area Director properly stated that such changes to an application after the deadline for submission cannot be considered. In a competitive grant process, consideration of information presented after the date for filing an application would violate BIA's and the Board's duty to give fair and equitable consideration to all grant applications by giving some applicants two chances to submit an acceptable application. See also Baltimore American Indian Center v. Minneapolis Area Director, 26 IBIA 189 (1994), and cases cited therein.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Acting Juneau Area Director's April 6, 1994, decision is affirmed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge